

LABOUR DEPARTMENT
The 18th June, 1968

No. 5295-3Lab-68/15101.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Hemla Embroidery Mills, Private Ltd., Faridabad.—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

References Nos. 65 and 52 of 1967
Between

The workmen and the management of M/s
Hemla Embroidery Mills Private Ltd.,
Faridabad.

Present. Shri Darshan Singh, for the workmen
Shri N. S. Sistani, for the management.

AWARD

This order will dispose of two connected references Nos. 65 and 52 of 1967. The questions of fact and law involved in both the references are common and so both the references were tried together with the consent of the parties.

The facts of the case briefly stated are that Shri Bansi Lal was serving in the Singer Section while Shri Ajit Singh was serving in the Embroidery Section of M/s Hemla Embroidery Mills Private Ltd., Faridabad. The services of both these workmen were terminated. They were aggrieved by reason of the termination of their services and the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred both the disputes to this Court for adjudication. The dispute with regard to the termination of the services of Shri Bansi Lal was referred.—*vide* Gazette notification No. 301-SFIII-Lab-67/22729, dated 31st July, 1967, and has been registered at No. 65. The dispute with regard to the termination of the services of Shri Ajit Singh was referred.—*vide* Gazette notification No. 267-SFIII-Lab-67/20039, dated 15th July, 1967, and has been registered at No. 52.

On receipt of the references usual notices were issued to the parties in response to which the workmen filed the statements of claim and the management filed their rejoinders which are practically the same.

The case of the workmen is that on 26th December, 1966, both of them reported at the factory gate as usual for going to work along with a number of other persons but they were not allowed to enter the factory premises by the Security Officer. The workmen concerned along with others brought this fact to the notice of the Labour Officer, Faridabad. On the next day, i.e., 27th December, 1966, the workmen received charge-sheets and were summoned to the Police Station for investigation of some complaint brought against them by the management but on investigation the complaint was found to be baseless so far as the claimants were concerned but all the same the management held a joint domestic enquiry against them and their co-workers in which no opportunity to cross-examine the witnesses was given to them. It is alleged that after the enquiry ended the workmen were not informed what action had been taken against them. They were simply not allowed to resume the work. It is alleged that the workmen were active members of the Textile and Embroidery Workers Union, Faridabad, and the workers of the factory were on strike for a month before the services of the

claimants were illegally terminated in this manner. It is submitted that the termination of the services of the claimants was only due to their taking an active part in the strike demanding implementation of agreement and on account of their trade union activities.

The version of the management as given in their rejoinders is that on 24th December, 1966 at about 8.30 a.m. the claimants along with a number of other workers in pursuance of the common object of their conspiracy created violence in the factory and grappled with Shri Jaginder Singh Uppal, Director of the Company, and were thus responsible for gross indiscipline and misbehaviour inside the factory. Consequently appropriate charges were framed against them and a domestic enquiry was held. The charges against them were duly established and the Enquiry Officer submitted a report recommending the termination of the services of the claimants. It is pleaded that the claimants are persons of very dangerous character as they openly preached lawlessness, incited the workers to take violence, created indiscipline and were guilty of breach of peace. It is alleged that the presence of such workers in the factory is likely to create serious complications which may lead to dangerous results and therefore, such workers could never be imposed on the management. The pleadings of the parties gave rise to the following issues:—

- (1) Whether the termination of services of Sarvshri Ajit Singh and Bansi Lal was justified and in order?
- (2) Whether the claimants have been victimised on account of their trade union activities?
- (3) If issue No. 1 is not proved, to what relief the claimants are entitled?

It appears that the intention of the management from the very beginning has been to delay the proceedings and all possible methods were resorted to achieve this end. As we have already seen the management have made very serious allegations against the claimant but even the record of the domestic enquiry was not filed along with the rejoinders.

The parties were, therefore, ordered to produce the documents, record of the enquiry proceedings and the list of the witnesses to be examined by 2nd November, 1967. On the date fixed the representative of the management filed an application to the effect that the management had sought to justify the dismissal of the claimants on the ground that they were guilty of serious act of misconduct in consequence of which charges were framed against them, and an enquiry was held which ultimately resulted in their dismissal, therefore, it was appropriate that an issue "whether the domestic enquiry against the workers was held in accordance with the principle of natural justice and the enquiry was not in any manner perverse, should have been framed and decided before the other issues. The learned representative of the management was heard at length in support of this application. He left after submitting this arguments without leaving any person, behind to hear the orders passed by the Court on his application. Before the Court rose for the day a detailed order was passed holding that the request of the management for a piece-meal trial was not feasible. The parties were directed to produce their evidence on the issues already framed on 21st December, 1967. Since no body was present on behalf of the management, it was ordered that the parties be informed of the order. On the

date fixed for the evidence the learned representative of the management Shri N. S. Sistani stated that he had no intimation of the orders passed by this Court on 2nd November, 1967 and that he had not brought any evidence on that date. He requested for adjournment. This request was accepted and the case was adjourned to 10th January, 1968, for evidence. On the date fixed instead of producing any evidence another application was made on behalf of the management in which it was alleged that the onus of issue No. 1 has been wrongly placed on the management because it was for the claimant to prove that their services have been wrongly terminated and they were entitled to the relief claimed by them. As already observed the issues in this case were framed on 25th October, 1967, and there was no explanation as to why this application for changing the onus was made so late. Another application was also made on the same day in which it was alleged that the orders of this Court dated 2nd November, 1967, refusing piece-meal trial was likely to have far reaching consequences and was also likely to highly prejudice the rights of the management. It was submitted that the management wanted to challenge this order by way of writ petition in the High Court. It was, therefore, prayed that the case be adjourned at least for a month. The claimant, Shri N. S. Sistani was present on behalf of the application for changing the onus and the case was adjourned to 6th February, 1968. On the date fixed Shri Chaman Lal appeared on behalf of the claimant. Shri N. S. Sistani was present on behalf of the management. He did not urge anything in support of his application for changing the onus of issue No. 1. Shri Chaman Lal stated that Shri Darshan Singh who was conducting the case on behalf of the workmen was unavoidably absent. So on his request the case was adjourned to 24th February, 1968, for evidence. At that time Shri Sistani did not bring to the notice of the Court that his application for changing the onus of issue No. 1 had not been disposed of and therefore, the case should not be adjourned for evidence without disposing of that application first. On the date fixed for evidence that is on 24th February, 1968, Shri O. P. Oberoi appeared on behalf of the management and stated that Shri N. S. Sistani who represented the management was held up at Delhi and he would reach by 12 noon. This request was accepted and Shri Sistani was awaited but he did not appear till 1.10 p.m. Shri Oberoi who remained present throughout could not give any reason as to why Shri Sistani was not able to come. So the evidence of the workmen was recorded. No evidence was present on behalf of the management. Shri Sistani appeared at about 1.25 p.m. and immediately made an application praying that the *ex parte* evidence of the claimants which had been recorded in his absence be set aside and the management be given an opportunity to defend the case. It was alleged that various applications made by the parties including the one for amendment of the pleadings submitted by the workmen were pending before this Court and they were to be argued. It appears that the learned representative had not even cared to note the orders of the Court that the date was fixed for recording the evidence. As regards the reasons as to why the representative of the management could not attend the Court at 10 a.m., it was alleged that his car broke down in the way from Delhi and for this reason he could not attend in time. This application was opposed by the claimant and the following issue was framed: -

Whether there is sufficient cause for the absence of the management on 24th February, 1968?

Before dealing with the merits of the case it is necessary to decide the above issue. I have recorded the evidence of the parties on this issue. The question to be considered is whether the management is entitled to make an application that the evidence of the workmen recorded in the absence of their special representative Shri N. S. Sistani be set aside and if so, whether there was any sufficient cause for the absence of the management on 24th February, 1966 from 10 a.m. to 1.10 p.m.

Rule 22 of the Industrial Disputes (Punjab) Rules, 1958, lays down that if without good cause shown, any party to proceedings before a Board, Court, Labour Court, Tribunal or Arbitrator fails to attend or to be represented, Board, Court, Labour Court, Tribunal or arbitrator may proceed as if he had duly attended or had been represented. It is true that rule 24 of the aforesaid rule lays down that a Tribunal constituted under the Act has the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of—

- (a) discovery and inspection,
- (b) granting adjournment,
- (c) reception of evidence taken on affidavit etc.,

and it may be argued that the Labour Court has the same powers which are conferred on Civil Courts under order XVII of the Code of Civil Procedure which relates to "adjournments" and in accordance with the principle laid down in Rules 2 and 3 of order XVII if on the date fixed the parties or any of them fail to appear the Court has power to dispose of the case, in any of the modes, directed in that behalf by order IX and if the case is fixed for evidence the Court can proceed with the case and decide it forthwith. If later on the defaulting party is able to show good cause for non-appearance the Court can set aside the disposal in default or *ex parte* proceedings but as we have seen rule 22 of the Industrial Disputes (Punjab) Rules, 1957, does not confer any power on the tribunal constituted under the Industrial Disputes Act to dismiss any case in default or to proceed *ex parte* or to set aside the dismissal in default or *ex parte* proceedings. On the contrary rule 22 specifically enjoins upon the tribunal to proceed with the case on merits as if the defaulting party is in attendance or is duly represented. Of course if a party is unable to attend on the date fixed for the hearing of the case for any sufficient reasons and intimates to the Tribunal the reasons for non-attendance in advance then certainly the tribunal can adjourn the hearing of the case but it is doubtful if there is any power vested in the tribunal constituted under the Industrial Disputes Act to set aside any proceedings taken in the absence of any party.

Even if it be held that a tribunal constituted under the Industrial Disputes Act has power to set aside any proceedings taken in the absence of the parties if sufficient cause is shown later on, I am of the opinion that in the present case the management has not been able to show that there was a sufficient cause for their non-appearing on 22nd April, 1968 from 10 a.m. to 1.10 p.m. The only reason given for the non-attendance of the management is that the car of their special representative broke down in the way while he was coming from Delhi to attend this Court sitting at Ballabgarh. In this connection Shri Sistani has stated in his evidence that he started from Delhi at about 9.45 a.m. in his car for Ballabgarh

and that he normally takes about 15 to 20 minutes for coming from Delhi to Ballabgarh. He says that Shri G. D. Verma, a Steno employed by the management was with him and the back wheel of the car got punctured in the way. So he stopped the car of a passerby and sent the punctured wheel through Shri Verma for repairs and it took more than two hours to put the car in order. We have already seen that the version given to the Court by Shri Y. P. Oberoi, Assistant Manager of the respondent concern who was present throughout in Court but who did not take part in the proceedings in the absence of the special representative Shri Sistani is different. When the case was called for hearing Shri Oberoi requested the Court to wait for some time because their special representative was held up in Delhi and had sent a message that he would be able to reach by 12 noon. No attempt has been made on behalf of the management to show how this wrong information was conveyed to Shri Oberoi. If the car of Shri Sistani really broke down in the way and the Steno of the management actually came with the punctured wheel then there could not be any possibility of a wrong message be delivered to Shri Oberoi. Shri Verma has not been produced in evidence to tell the Court what message he delivered and to whom. Shri Oberoi has also not come in the witness box to explain what message he received and from whom. As already observed Shri Oberoi was present in the Court when the case was called for the first time and he remained present throughout. When the case was called in the very first instance he stated that information had been received that Shri Sistani was held up in Delhi and he would reach by 12 noon. It is not clear how Shri Oberoi got into his head that Shri Sistani would be able to reach in the Court by 12 noon if he was really stranded in the way.

Even if it be believed that what Shri Sistani says is correct and he could not appear in time because the back wheel of his car was punctured, there is no explanation why no authorised representative of the management did not even bother to attend the Court in the absence of Shri Sistani. If what Shri Sistani says is correct and the Steno of the management actually arrived with the punctured wheel then it must have come to the notice of the management that Shri Sistani would not be able to reach the Court in time and it was their duty to see that an authorised representative did attend the Court so that no proceedings are held in their absence but we have already seen the management did not bother to send any authorised representative to the Court. It appears that the management is of the view that if for some reason or other their special representative is not able to attend the Court in time then the Court has no option but to keep on waiting for him indefinitely.

It also does not appear that there was any sufficient cause for the non attendance of Shri Sistani himself. On his own showing Shri Sistani was not alone in the car. Shri G. D. Verma, Steno, of the management was with him; If Shri Sistani had the least anxiety to be present in the Court in time then instead of sending Shri Verma with the punctured wheel, he could have himself come in the car of a passerby and informed the management that the wheel of his car was punctured and their Steno Shri G. D. Verma was in charge of it. Shri Sistani could have then attended the Court and on his way back get the car repaired and return to Delhi.

The previous history of the case also shows that the only interest of the management in this case from the very beginning has been to delay the proceedings on some pretext or the other. In the first instance the management insisted for a piece-meal trial and when this request was not acceded to it was represented that further proceedings be stayed because the management wanted to approach the High Court for the purpose of obtaining a stay order from the High Court. The proceedings were stayed but the management did not approach the High Court and instead of adopted other delaying tactics. It has already been pointed out that issues were framed on 25th October, 1967 and it took the management two-and-a-half months to make an application that the onus of the issue No. 1 had not been correctly placed and when notice of this application was given to the opposite party and the case was adjourned for the purpose of enabling the workmen to file their reply, the leaned representative of the management who was present on the adjourned date did not even urge that his application be decided first before fixing a date for evidence. Issue No. 1 simply reproduces the reference made to this Court for adjudication. It is the case of the management that the workmen were responsible for man-handling their Director and thus guilty of gross misconduct. It is also their case that a fair and proper domestic enquiry was held in which their guilt was satisfactorily proved. Obviously it is for the management in the first instance to prove that they did hold a fair and proper domestic enquiry. If the management do not lead any evidence on this point, it is not possible for the workmen to lead any evidence to prove that the enquiry held against them was not fair. The main point taken up by the workmen in this case is that the Enquiry Officer did not give them any opportunity to cross-examine the witness produced against them by the management and unless the management tender in evidence the Enquiry Officer to prove the enquiry conducted by him the workmen have no means of showing that the enquiry held against them was not proper. Certainly the management can not expect the aggrieved workmen to summon the Enquiry Officer as their witness for the purpose of proving that the enquiry held by him was improper and then give an opportunity to the management to cross-examine their own witness. Such a practice has been condemned by their Lordships of Privy Council in no uncertain terms. In my opinion therefore the action of the management is not producing any evidence on the issues framed by this Court and instead giving an application for changing the onus of issue No. 1 was only for the purpose of delaying the case and there was no sufficient cause for the non appearance of the management on the date fixed and for non-producing their evidence as directed. I find that this issue against the management.

As regards the merits of the case Shri Ajit Singh workman has appeared in evidence and has stated that he was a permanent employee of the respondent and that the management terminated his services on 24th December, 1966 without any prior notice or giving him any charge-sheet. He says that he along with seven other workers went to the factory as usual but the Security Officer told them not to go into the factory. He further says that he was involved in false case but was let off during investigation. He also says that during the course of domestic enquiry he was not given any opportunity to cross examine the witnesses. A joint domestic enquiry was held against him and his fellow workman Basi Lal and according

to the evidence of this witness his fellow workman Shri Bansi Lal was also not given any opportunity to cross examine the witnesses. Under these circumstances it must be held that the termination of the services of Sarvshri Ajit Singh and Bansi Lal was not justified and in order. Both of them are entitled to be reinstated with full back wages.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak,

The 29th May, 1968

No. 1014, dated the 7th June, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947. Dated: - 29th May, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak,

No. 5391-3Lab-68 15103. -In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/S Kapur Bus Service (Group B) Hansi: -

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.
Reference No. 41 of 1968.

Between

Shri Nand Lal Workman and the management of M/S Kapur Bus Service (Group B), Hansi.

Prtsent:—Shri Nand Lal, claimant in person.
Nemo for the management.

AWARD

Shri Nand Lal has been in the service of M/S Kapur Bus Service (Group B) Hansi as a Driver. His services has been terminated. This gave rise to an industrial dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication, -vide Government Gazette Notification No. ID/IISR/1-68/B, dated 4th April, 1968.

Whether the termination of services of Shri Nand Lal is justified and in order?

If not, to what relief he is entitled?

On receipt of the reference usual notices were issued to the parties in response to which the workman filed a statement of claim. The notice regarding the reference issued to the management under registered cover acknowledgement due was received back with endorsement "refused". *Ex parte* evidence of the workman was accordingly recorded. The workman has appeared as his own witness in support of his case. He has stated that he has been in the service of M S Kapoor Bus Service, Hansi, from the last 16 or 17 years as a Driver and was getting Rs. 150 P.M., and that his services were terminated on 15th August, 1967 without intimating to him the reasons for the same. He further states that no prior notice was given to him nor he was given any opportunity to show cause as to why his services be not terminated. In view of this evidence it must be held that the termination of the services of the claimant Shri Nand Lal was not justified and in order. He is entitled to be reinstated with full back wages and continuity of services. I give my award accordingly.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated:—7th June, 1968.

No. 1020, dated the 10th June, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947. Dated: 7th June, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak,

No. 5203-3Lab-68/15105. -In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/S Kapoor Bus Service (Group B), Hansi: -

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK
Reference No. 36 of 1968.

Between

Shri Madan Mohan, workman and the management of M/S Kapoor Bus Service (Group B), Hansi.

Present: -Shri Tek Chand Gupta, for the claimant.
Nemo, for the management.

AWARD

Shri Madan Mohan was in the service of M/S Kapoor Bus Service (Group B), Hansi. His services were terminated on 9th December, 1967. This gave rise to an Industrial Dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication, -vide Government Gazette Notification No. ID HR/1-68/A, dated 26th March, 1968,

Whether the termination of services of Shri Madan Mohan is in order and justified?
If not, to what relief is he entitled?

On receipt of the references usual notices were issued to the parties in response to which the workman filed a statement of claim. The notice issued to the management under registered cover was received back with endorsement that the services had been refused. *Ex parte* evidence of the workman was, therefore, called. Shri Madan Mohan workman has appeared as his own witness in support of his case. He has stated that he had been in the service of the respondent society from the last 10 years and he was working as a Conductor on Bus No. PNW 8139 when his services were terminated on 9th December, 1965 without informing him as to what was wrong with his work nor he was given any opportunity to show cause. The workman says that he also gave an application copy Ex. W.1 to the Labour Officer, Hissar and as the management persisted in not providing him with any work, he served a demand notice copy Ex. W. 2 to the management.

It is satisfactorily established by the evidence of the workman that the management terminated his services without intimating to him as to what was wrong with his work nor he was given any opportunity to show cause. It must, therefore, be held that the termination of his services was not justified and in order. He is, therefore, entitled to be reinstated with full back wages and incontinuity of his service.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated:—3rd June, 1968.

No. 983, dated the 4th June, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under

section 15 of the Industrial Disputes Act, 1947.
Dated:—3rd June, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 5201-3Lab-68/15107.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s. Pearl Cycle Industries (P), Ltd., Railway Road, Ballabgarh.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 63 of 1967

Between

SHRI KHAZAN SINGH, THE WORKMAN AND
THE MANAGEMENT OF M/S. PEARL
CYCLE INDUSTRIES (P) LTD:
RAILWAY ROAD.
BALLABGARH.

Present :— Shri Ashok Kumar, for the workman.
Shri K. K. Khullar, for the management.

AWARD

Shri Khazan Singh was in the service of M/s. Pearl Cycle Industries (P), Ltd., Railway Road, Ballabgarh. His services were terminated and this gave rise to an industrial dispute. The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication.—*vide* Government Gazette notification No. 288-SFIII-Lab-67/21669, dated 27th July, 1967 :—

Whether the termination of services of Shri Khazan Singh was justified and in order? If not to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which the workman filed the statement of claim and the management filed the rejoinder to the same. It is not necessary to decide the case on merits because there has been a compromise between the parties and the workman Shri Khazan Singh has given up his claim for reinstatement or for any other relief. The workman has now no claim against the management. I give my award accordingly. No order as to costs.

Dated the 30th May, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 934, dated 4th June, 1968.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.
Dated the 30th May, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 5204-3 Lab-68/15109.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and

management of M/s. Milhard (P), Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING
OFFICER, LABOUR COURT, HORTAK.
Reference No. 81 of 1967.

Between

Shri Gir Raj Singh, workman and the management of M/s. Milhard (P), Ltd., Faridabad.

Present:

Shri Krishan Lal, for the workman.

Shri S. L. Gupta, for the management.

AWARD

Shri Gir Raj Singh was in the service of M/s. Milhard (P), Ltd., Faridabad. His services were terminated on 18th February, 1967. This gave rise to an industrial dispute and the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication.—*vide* Government Gazette notification No. 381-SFIII-Lab-67, dated 1st September, 1967.

Whether the termination of services of Shri Gir Raj Singh is justified and in order? If not, to what relief he is entitled?

On receipt of the reference usual notices were issued to the parties in response to which the workman filed a statement of claim and the management filed their rejoinder to the same. The case of the workman is that he had put in two years of service and that the management terminated his services without giving him any prior notice or an opportunity to show-cause against the termination of his services. He, therefore, claimed reinstatement with full back wages.

On behalf of the management a preliminary objection has been taken that there is no industrial dispute between the workman and the management and the order of reference as worded is not legal. On merits it is pleaded that the workman absented himself from duty in the beginning of February, 1967. A notice to show-cause was sent to him by registered post but no reply was received. It is alleged that the workman approached the management on 14th April, 1967, and intimated that he was not interested in continuing the service of the respondent and demanded his dues. Accordingly, he was paid Rs. 137.87 paise in full and final settlement of his dues and there is no dispute between him and the management. The following issues which arose from the pleadings of the parties were framed:

- (1) Whether the reference is invalid for the reason mentioned in the preliminary objections?
- (2) Whether the claimant absented himself from duty from the beginning of February, 1967, and thus abondoned his service?
- (3) Whether the claimant has accepted Rs. 137.87 n.P. in full and final settlement of his claim and abondoned his claim for reinstatement?
- (4) If the above issues are found in favour of the workman whether his services have been rightly terminated? If not, to what relief he is entitled?

The issues were framed on 22nd November, 1967. The management closed their evidence on 5th March, 1968, and at the request of the representative of the workman the case was adjourned to 15th April, 1968, for evidence. This date was later on changed to 19th April, 1968. On the date fixed for evidence the representative of the workman requested for another adjournment on the ground that evidence was not present. As prayed the case was adjourned to 22nd May, 1968. On the date fixed the representative of the workman again asked for adjournment on the

ground that the workman had not come. He asked for only one day's adjournment. Accordingly the case was adjourned to 23rd May, 1968. On the date fixed the workman was again absent. A request was made for further adjournment but no reason was given as to why the workman could not attend and why no evidence had been summoned or produced in spite of the fact that two adjournments had been given for the purpose. In case the workman had been ill or prevented from attending the Court for any other sufficient reason it would have been possible to grant further time but it appears that the representative of the workman did not receive any instructions from the workman and he has been asking for adjournments in the hope that he would be able to contact him and produce him in evidence but it does not appear that the hope of the representative of the workman materialised and he has asked for further adjournment simply in the hope that he may be able to trace the workman and produce him. Under these circumstances it was not possible to accede to the request for further adjournment and the case of the workman was closed and my findings on the issue framed is as under:—

ISSUE No. 1. Under section 2A of the Industrial Disputes Act a workman if aggrieved by reason of the termination of his services is competent to raise an industrial dispute even if no other workman or the union of workman espouse his cause. Hence, there is no force in the preliminary objection raised by the management and I find this issue in favour of the workman.

ISSUE No. 2. Shri Kidar Nath, M.W. 1, Labour Officer of the respondent concern has stated that the workman Shri Gir Raj Singh was in their service and he was temporarily absent in the month of January, 1967, but from February onwards he was absent continuously, and so he was given a show-cause notice copy Ex. M. 11 but no reply was received and he was given a second show-cause notice copy Ex. M. 10. Shri Kidar Nath states that a letter copy Ex. M. 12 was also sent to the workman under registered cover and his services stood terminated because of his continued absence. As already observed the workman has not led any evidence in rebuttal although the case was adjourned twice for the purpose. The workman himself was examined on 8th January, 1968, for the purpose of obtaining his admissions or denials on number of documents produced by the management. The workman admitted his signatures on a number of documents but pleaded that he does not know English and in his capacity as a member of Works Committee his signatures were taken on number of papers on which nothing was written. Shri Brij Mohan Wadhan M.W. 3, an Assistant in the office of the respondent concern and the Secretary of the Works Committee does not support this version. He says that the workman concerned never signed any blank paper. Since the workman has not even cared to appear as a witness and give an opportunity to the management to cross examine him, it is not possible to believe his version

that he simply signed certain blank papers in his capacity as a member of Works Committee as against the sworn testimony of Shri Kidar Nath, Labour Officer and Shri Brij Mohan an Assistant in the office of the respondent concern and a member of Works Committee. Shri Brij Mohan was cross-examined by the representative of the workman and nothing was elicited by the cross-examination to show what motive this witness had to depose falsely against his fellow workman Shri Gir Raj Singh. I am, therefore, of the opinion that it is satisfactorily established that the workman Shri Gir Raj Singh absented himself from duty from the beginning of February, 1967, and the management was justified in striking off his name. I find this issue in favour of the management.

ISSUE No. 3. Shri Kidar Nath, M.W. 1 Labour Officer in the respondent concern has also stated in his evidence that an application Ex. M. 9 was received from the workman for issue of a service certificate and that the workman himself came on 14th April, 1967 and received his dues in full and final settlement because he said that he did not wish to continue in service. Shri Kidar Nath states that the workman only desired that one month extra pay may be given to him and so his dues were calculated by the time-office and checked by the Cashier and a sum of Rs. 137.87 paise were paid to the workman in his present and he signed the receipt Ex. M. 1. The workman in his statement which was recorded for the purpose of obtaining his admissions and denials only admitted the receipt of Rs. 16 or 17 on account of over-time wages. It is not possible to believe that the workman would blindly sign a receipt acknowledging the receipt of Rs. 137.87 paise while in fact he was only paid Rs. 16 or 17. Shri Subash Chander M.W. 2 who is working as a Cashier in the respondent concern has stated that he prepared the voucher Ex. M. 1 and actually paid Rs. 137.77 after deducting the cost of the revenue stamp. Shri Subash Chander states that there is an entry with regard to this payment in the day book as also in the ledger. There is no reason to believe that the respondent concern is also maintaining fictitious accounts. In my opinion the payment of Rs. 137.87 paise to the workman in full and final settlement is satisfactorily proved. I find this issue also in favour of the management.

ISSUE No. 4. In view of my findings on issues Nos. 2 and 3 this issue does not arise and it is held that the termination of the services of Shri Gir Raj Singh was justified and in order and he is not entitled to any relief. I give my award accordingly. No order as to costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.

Dated 31st May, 1968.

No. 980, dated 4th June, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak

Dated 31st May, 1968.

No. 5200-3 Lab-68/15111.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and management of M/s. Indian Metal Industries, Industrial Area, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 127 of 1967.

between

The Workman Shri Man Bahadur and the management of M/s. Indian Metal Industries, Industrial Area, Faridabad.

Present:—

Shri Roshan Lal Sharma, for the workman.
Shri R. C. Sharma, for the management.

AWARD

The claimant Shri Man Bahadur was employed as a Chowkidar in M/s. Indian Metal Industries, Faridabad. It is alleged that his services have been terminated by the management within giving any prior notice or giving him any charge-sheet and this gave rise to an industrial dispute. The President of India in exercise of the powers conferred by clause (c) of subsection (1) of section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947, referred the following disputes to this Court for adjudication.

Whether the termination of services of Shri Man Bahadur was justified and in order? If not to what relief is he entitled

On receipt of the reference usual notices were issued to the parties in response to which the workman filed his statement of claim and the management filed their rejoinder to the same. The management in their rejoinder have raised a preliminary objection. It is alleged that the dispute in question has been raised by the General Labour Union which is not a union of a particular industry but enrolls members here and there and as their membership is not confined to any industry, therefore, no valid dispute can be raised by such a union on behalf of the workman. It is further alleged that there is only individual dispute but the Government have termed it as an industrial dispute. Reference is also said to be vague in so far it does not make clear in what manner services has been terminated and, therefore, the subject-matter of dispute does not fall within the jurisdiction of this Court. On merits it is pleaded that the claimant Shri Man Bahadur resigned from service with effect from 17th August, 1967, and he has taken his account in full and final settlement. It is alleged that the management never terminated the services of the claimant. He was also given a service certificate dated 18th August, 1967, and, therefore, there is no dispute between the parties.

The pleadings of the parties gave rise to the following issues:—

(1) Whether the reference is bad for the reasons mentioned in the preliminary objections?

(2) Whether the claimant Shri Man Bahadur resigned from service on 17th August 1967, and has received the amount due to him in full and final settlement of his claim?

(3) If the above issues are found in favour of the claimant, whether the termination of his services was justified and in order? If not, to what relief is he entitled?

ISSUE No. 1. Under section 2A of the Industrial Disputes Act, 1947, a workman who is aggrieved by reason of his discharge, dismissal or retrenchment from service can raise an industrial dispute even if no other workman or any union of workman is a party to the dispute. In this case Shri Man Bahadur claimant is aggrieved by reason of the termination of his service and has raised the present dispute through the General Labour Union. The order of reference can not also be said to be vague simply because the manner in which the services of the claimant have been terminated is not mentioned. I, therefore, find that there is no force in any of the preliminary objections.

ISSUE No. 2. Shri Verinder Kumar Proprietor of the respondent concern has stated that he did not terminate the services of the claimant. He says that the claimant himself resigned his job on 17th July, 1967, and accepted Rs. 62.45 in full and final settlement of his claim and signed his name in the payment of wages register on a revenue stamp and wrote with his own hand "Mai Nay Apna Pura Hisab La Lia Ha". Shri Verinder Kumar further states that in addition the claimant was paid approximately Rs. 300 on account of his gratuity, bonus and other claims and the claimant gave a receipt acknowledging this amount and he was also given a service certificate. The claimant has not attended the Court as in order to rebut this evidence although he was given two opportunities for the same. Since no evidence to rebut the evidence of the management has been produced, I find this issue in favour of the management.

ISSUE No. 3. This issue does not arise in view of my findings on issue No. 2.

Since it is proved that the claimant himself resigned from service, it can not be said that the termination of the services was not justified and in order. He is not entitled to any relief. I give my award accordingly. No order as to costs.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated: 30th May, 1968.

Endorsement No. 985, dated the 4th June, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated: 30th May, 1968.

The 19th June, 1968.

No. 5424 3Lab-68/15173.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, Chandigarh, in respect of the dispute of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of M/s. Dalmia Dadri Cement Ltd., Charkhi Dadri.

888

BEFORE SHRI K. L. GOSAIN, PRESIDING
OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH.
Reference No. 103 of 1967.
between

The Workmen and the Management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri.
Present: Dr. Anand Parkash and V. Kaushik
for the management.
Shri G. C. Joshi for the workmen.

AWARD

An industrial dispute having come into existence between the workmen and the management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri, over the following two items, the same was referred for adjudication to this tribunal under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, *vide* Haryana Government Notification No. ID/NN/1-A/67/52808, dated 16th December, 1967:—

- (1) Whether the workers should be paid wages at the end of every year for the leave unavailled by them during that year? If so, with what details?
- (2) Whether the workers should be issued appointment letters at the time of their employment? If so, with what details?

Usual notices were issued to the parties and in response to the same the workmen filed their statement of claims and the management filed their written statement to the same. A preliminary objection was taken by the management that the demand covered by item No. 1 of the dispute could not be adjudicated in view of an alleged settlement, dated 8th April, 1965. The pleadings of the parties gave rise to three issues, the first of which related to the aforesaid preliminary objection and the rest two of which were precisely the same as the two items of dispute. Parties led their evidence in respect of the three issues and their representatives also addressed their arguments to me. After the conclusion of the arguments, however the parties amicably settled the dispute and I recorded the statements of their representatives with regard to the said settlement. The terms of settlement are contained in the statement of Dr. Anand Parkash representative of the management which reads as under:—

"The management have agreed that if and when any workman, who has already accumulated leave allowable to him applies for leave due to him over and above accumulated period, the management shall ordinarily grant that leave. In case the exigencies of service so require, the management may refuse leave in any particular case, but it shall then pay extra wages for the period of the said leave or in other words it will encash the leave to the extent it exceeds the maximum accumulation limits. The application for leave by the workman concerned must, however, be a bona fide one by which I mean it should not be made by him in such a manner that continuity of work comes to an end or is likely to suffer badly. The management shall expect that the leave applications are made well in time. Award with regard to item No. 1 of the dispute may be made in these terms.

The management have agreed to issue appointment letters to all the workmen excepting those who are appointed merely as casual workers or who are taken as badli workers. In fact the management is already issuing such letters and agree to continue to do the same. In those letters the management

will give the normal conditions of service applicable to each of the workmen concerned. The management is not aware of any case in which a letter of appointment had not been issued to any of the workmen now working in the concern and not covered by the categories of casual and badli workers. They will, however, check it up and if there is any such case they will issue necessary appointment letters. Award on the second item of reference may be given in terms of this."

Both parties have agreed that an award may be made in this case in terms of the settlement as given in full details in the statement of Dr. Anand Parkash. As desired by the parties I make may award in terms of the said settlement.

No order as to costs.

(Sd.)

Dated, the 13th June, 1968. Presiding Officer.
Industrial Tribunal, Haryana,
Chandigarh.

No. 765. Dated, Chandigarh, the 15th June, 1968.
The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required by Section 15 of the Industrial Disputes Act, 1947.

(Sd.)
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 5202-3Lab-68/15176. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Good-Earth G.M.C. (P.) Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING
OFFICER, LABOUR COURT, HORTAK.
Reference No. 31 of 1968.
between

Shri Raja Ram, workman and the management of M/s Good-Earth G.M.C. (P.) Ltd., Faridabad.

Present:

Nemo, for the workman.

Shri R. C. Sharma, for the management.

AWARD

Shri Raja Ram was in the service of M/s Good Earth G.M.C. (P.) Ltd., N.I.T., Faridabad. His services were terminated on 13th January, 1968. This gave rise to an Industrial Dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following disputes to this Court for adjudication, *vide* Government Gazette notification No. ID/FD/33A/6422, dated 8th March, 1968.

Whether the termination of services of Shri Raja Ram was justified and in order? If not to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which the workman filed his statement of claim and the management filed their rejoinder to the same. It is not necessary to deal with the merits of the case because on the date fixed for the evidence no body appeared on behalf of the workman and Shri R. C. Sharma who represented the management made a statement that there has been a compromise between the parties according to which the workman has withdrawn his claim for reinstatement, re-employment, etc., pending in

this Court and the management have agreed to pay him 15 days wages as ex-gratia in addition to earned leave, earned wages if any due to him. Shri Sharma prayed that the award may be given according to the settlement arrived at between the parties, and I give my award accordingly. No order as to costs.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak

Dated : 30th May, 1968.

No. 982, dated the 4th June, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 16 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated : 30th May, 1968.

No. 5262-3Lab-68/15179. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Precision Metal Works, Railway Road, Gurgaon.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.
Reference No. 3 of 1968.

between

Shri Ram Bilas workman and the management of M/s. Precision Metal Works, Railway Road, Gurgaon.

Present:—

Shri Sharda Nand, for the workman.

Shri R. L. Kapoor, Managing Partner, for the management.

AWARD

The claimant Shri Ram Bilas was in the service of M/s. Precision Metal Works, Railway Road, Gurgaon. It is alleged that the services of the claimant were terminated on 30th September 1967, without giving him any charge-sheet or a show-cause notice. This gave rise to an industrial dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—vide Gazette notification No. ID/GG/IB-67/532-38, dated 9th January, 1968.

Whether the termination of service of Shri Ram Bilas was justified and in order?

If not, to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties. The workman did not file any fresh statement of claim in response to the notice issued to him. The management filed a written statement in which it was alleged that the services of the claimant were never terminated by the management. It was alleged that on 27th September, 1967, the claimant applied for one day leave on the plea of illness and made an oral request for leave to the Foreman for 29th September, 1967 also. Thereafter he did not turn up. It was further alleged that on 30th September, 1967, a letter was sent to the claimant at his residential address under postal certificate but he neither acknowledged this letter nor turned up on duty, so after waiting for him for nearly three weeks his name was struck off from the rolls. A copy of the written statement was given to the claimant and the case was adjourned for replication but on the date fixed neither the workman nor his representative appeared. So the following issue was framed on

the basis of the pleas taken in the written statement.

Whether the services of the claimant were terminated as he did not resume his duty after the expiry of the leave on 29th September, 1967?

The case was adjourned for evidence to 12th March, 1968. On the date fixed the representative of the workman made a request for adjournment. This request was accepted and the case was adjourned for evidence to 6th May, 1968. On the date fixed the representative of the workman made a statement that the workman was not present and that he had no instruction, to proceed further with the case. He further stated that the workman was involved in a abduction case and so was no longer interested in prosecuting the case. In view of the statement that the claimant is no longer interested in prosecuting his case and in view of the position taken up by the management in the written statement that the claimant had left the job of his own accord and that his services stood terminated, it must be held that the termination of his service, was justified. I give my award accordingly. No order as to costs.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated : 7th May, 1968.

No. 903, dated the 25th May, 1968.

Forwarded to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

Dated : 7th May, 1968.

The 21st June, 1968

No. 5190-3Lab-68/15362.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following amendment ordered by the Presiding Officer, Labour Court, Rohtak, in the award published in Punjab Government Gazette, dated the 11th June, 1965—in respect of the dispute between the workmen and management of M/s. Punjab State Electricity Board, Chandigarh :—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK.

Reference No. 56 of 1964
Between

THE WORKMAN AND THE MANAGEMENT
OF M/S. PUNJAB STATE ELECTRICITY
BOARD, CHANDIGARH.

Amendment in the Award

Application No. 1 of 1967 for the correction of a Clerical Error in the Award of this Court published in the Punjab Government Gazette, dated 11th June, 1965

The Governor of the Punjab, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10, read with the first proviso to that sub-section of the Industrial Disputes Act, 1947, referred the following Industrial Disputes to this Court for adjudication,—vide Gazette notification No. 7789-3-Lab-I-64/17835, dated 1st August, 1964 :—

(1) Whether the wages of the workmen as per list marked annexure 'A', who were previously employees of the South Punjab Electricity Corporation, Ltd, H.O. Hansi, Hissar and Bhiwani, prior to taking over by the Punjab State Electricity Board in April, 1962 should be protected by the Punjab State Electricity Board? If so, with what details?

(2) Whether the services of the workmen as per list marked annexure 'A' who were employees of the South Punjab Electricity Corporation, Ltd; H.O. Hansi, Hissar and Bhiwani, prior to taking over by the Punjab State Electricity Board in April, 1962 should be treated as continuous ? If so, with what details ?

My learned predecessor Shri Jawala Dass after hearing the parties submitted his award. While discussing item No. 1 of the reference my learned predecessor held that Sarvshri Ranjit Gopal, Moman Ram, Om Parkash, Tilak Raj, Bhagwat Sarup, Sahi Ram, Ram Gopal, Manohar Lal, Hargian Dutt, Jiwan Ram, whose names appeared in the statement Ex. C/1 have been allowed temporary allowance to make up the difference between the substantive pay that they were receiving from the Corporation and which have now been allowed to them by the Board. It was held that the temporary allowance so allowed to them will now merge in their substantive pay and their salary be fixed accordingly in the grade and scale which has been allowed to them by the Board. This award was published in the Punjab Government Gazette, dated 11th June, 1965.

Shri M. K. Jain, applicant who was also a party to the industrial dispute, referred to this court for adjudication. He had also claimed that he was allowed a temporary allowance to make up the difference between the substantive pay which he was previously receiving and which had been allowed to him by the Board and that his name also appeared in the statement, Ex. C 1 referred to in the award but by reason of an error arising from an accidental slip or omission his name has not been mentioned in the award along with that of Sarvshri Ranjit Gopal, Maman Ram, Om Parkash, Tilk Raj, Bhagwat Sarup, Sahi Ram, Ram Kumar, Manohar Lal, Hargian Dutt, Jiwan Singh, whose temporary

allowance was ordered to be merged in their substantive pay. He has, therefore, proved that this accidental omission may be corrected under the provisions of section 28 of the Industrial Disputes (Punjab) Rules, 1958.

Notice of this application has been given to the management of the Haryana State Electricity Board, Chandigarh, who have filed their written statement. The authorised representative of the Satte Electricity Board has admitted in the written statement that the contention of the applicant Shri M. K. Jain, is correct and that the award may be modified by including the name of Shri M. K. Jain, because his name was omitted by the Court by clerical mistake. Under Rule 28 of the Industrial Disputes (Punjab) Rules, 1958, the Labour Court, Tribunal or Arbitrator is entitled to correct any clerical mistake or error arising from accidental slip or omission in any award it issues. I, therefore, correct the award and direct the name of Shri M. K. Jain be included along with the names of Sarvshri Ranjit Gopal, Maman Ram, Om Parkash, Tilk Raj, Bhagwat Sarup, Sahi Ram, Ram Kumar, Manohar Lal, Hargian Dutt, Jiwan Singh, whose temporary allowance have been merged with their substantive pay.

Dated the 5th April, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 741, dated the 10th April, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, is required under section 15 of the Industrial Disputes Act, 1947.

Dated the 5th April, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.
R. I. N. AHOOJA, Secy.

REVENUE DEPARTMENT

The 14th June, 1968

No. 3498-R(II)-68/2357 As directed by the Lok Sabha in a motion adopted by it on the 11th April, 1968, that the Land Acquisition (Amendment) Bill, 1967, be circulated for the purpose of eliciting opinion thereon by the 31st August, 1968, the said Bill and its Statement of Objects and Reasons are hereby published for general information.

2. Any person or public body desiring to submit an opinion on the Bill is requested to send the same to the Secretary to Government, Haryana, Revenue Department, Chandigarh, by the 31st July, 1968, in order to enable the State Government to convey the opinion so received by the 31st August, 1968, to the Lok Sabha for its consideration.

3. It may be noted that any opinion sent directly to the Lok Sabha or the Government of India in respect of the Bill will not be taken into consideration.

B. S. GREWAL, Secy.

[As introduced in Lok Sabha on
23rd March, 1967].

Bill No. 9 of 1967.

THE LAND ACQUISITION (AMENDMENT) BILL, 1967

By

SHRI S. C. SAMANTA, M.P.

A

BILL

further to amend the Land Acquisition Act, 1894.

Be it enacted by Parliament in the Eighteenth year of the Republic of India as follows :—

Short title,
extent and
commencement.

- (1) This Act may be called the Land Acquisition (Amendment) Act, 1967.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force at once.

1 of 1894

2. In section 11 of the Land Acquisition Act, 1894 (hereinafter referred to as Amendment the principal (Act) for the words, figures and brackets, "at the date of the publication of of section the notification under section 4, sub-section (1)", the words "at the date of the acquisition" shall be substituted.

3. After section 15 of the principal Act, the following new section shall be inserted, namely :—

15A. Whenever bulk acquisition of land involves displacement of one hundred or more families, it shall be the responsibility of the requiring authority to provide for the rehabilitation of these displaced persons in a manner to be prescribed by Rules.

4. In sub-section (1) of section 23 of the principal Act, for the words, figures and brackets, "at the date of the publication of the notification under section 4, sub-section (1)" the words "at the date of the acquisition" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Section 23 of the Land Acquisition Act, 1894, enjoins that in determining the amount of compensation for land to be acquired under the Act, the Court shall take into account the market value of land on the date of publication of notification under section 4 of the Act. When the intervening period between the date of notification and the date of acquisition is long, the owner is entitled to a compensation which is wholly insufficient to buy an equivalent area of land with similar advantages. Our aim should be to pay a fair and reasonable price for land to be acquired, and to pay a price much below the market price is undoubtedly unfair and unreasonable. The law Commission has also recommended that as far as possible every one who is deprived of his property by compulsory acquisition should be awarded a compensation so as to place him in substantially the same position in which he was before the acquisition. Hence the Bill.

New Delhi :

The 13th March, 1967.

S. C. SAMANTA.

FINANCIAL MEMORANDUM

The Bill will no doubt involve expenditure but an estimate of such expenditure cannot be given at present. The expenditure will depend on several factors such as the number and magnitude of projects etc. which may, in future, have to be taken up for any public purpose. This factor alone cannot be determined now.

ANNEXURE

EXTRACTS FROM THE LAND ACQUISITION ACT, 1894

(1 OF 1894)

* * * * *

PART II ACQUISITION

* * * * *

Enquiry into Measurements Value and Claims and Award by the Collector

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (1), and into the respective interest of the persons claiming the compensation, and shall make an award under his hand of—

Enquiry and award by Collector.

- (i) the true area of the land;
- (ii) the compensation which in his opinion should be allowed for the land; and
- (iii) the apportionment of said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

* * * * *

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

Matters to be considered in determining compensation

first, the market value of the land at the date of the publication of the notification under section 4, sub-section (1);

* * * * *